From: Hull, Joseph F
To: 'microsoft.atr(a)usdoj.gov'
Date: 11/20/01 1:03pm
Subject: Microsoft Settlement - The settlement, in its current form, is no t in the best interests of the country nor ordinary citizens.

To U.S. District Judge Colleen Kollar-Kotelly, the Solicitor General,
Attorneys on the Case and Whomever It May Concern:

I am a computer professional with ove 30 years of professional experience. I have been a computer professional since before there was a Microsoft Corporation and have watched Microsoft's unprecedented growth of influence in the computer industry with both excitement and alarm. I am writing as a private citizen, albeit one with some expertise in the matter at hand, not as a representative of any company or organization.

In my opinion, Microsoft has made major positive contributions to our industry and our country and has been greatly rewarded for them, both financially and in reputation. However, as Microsoft's influence has grown, its business practices have both become more pernicious and increased in the burden they place on "the rest of us." It is time for Microsoft to cease and desist. Just as behavior that should be tolerated but discouraged in an adolescent should not be tolerated at all in an adult, it is time for the community, represented by the US Department of Justice, to demand, in the form of a court order, that Microsoft grow up.

"The marketplace of ideas," not unbridled capitalism has ever been the American way. Legitimate business and economic competition should not tolerate abuse of monopoly power (remember, this has already been adjudicated). Microsoft has demonstrated, both over time and recently, its intention and willingness to continue its aggressive repression of all companies and products that it sees as competitors for its products. Microsoft has demonstrated, both over time and recently, its intention and willingness to exploit any loophole, any flaw in wording, any explanation, however outrageous. The settlement, in its current form, ignores this evidence. It is clear that Microsoft will continue such behavior until it ceases to provide financial benefit to the company.

The remedy is likewise clear. Microsoft must be divided into 2 or more corporations: 1 which holds the rights to all of Microsoft's computer operating systems and forbidden to develop other kinds of computer products; the other(s) holding the rights to all other computer software and forbidden to develop computer operating systems, at least for the near future (much as the Baby Bells are forbidden to develop long distance telephone service products until they open their signal delivery systems to competitors. Gee, do you suppose it would be beneficial to commerce and the country as a whole if the Baby Bells were divided into service delivery companies and retail sales companies. Hmmmm.) The county's experience with the breakup of ATY&T, from Judge Greene's initial order to the Telecommunications Act of 1995,

should be a caution to you.

In my opinion, the settlement, in its current form, is a flagrant attempt by Microsoft to continue its repressive business practices. In my opinion, it is your job, as an organization of our representative government, to oppose this with every tool available. The current settlement must not be accepted.

Regards,

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Judge Should Assess Settlement
After years in the courts, the proposed settlement of the United States of America and nine states vs. Microsoft is as toothless as the consent decree of 1995
Microsoft again must make only nominal behavior changes. In return, it gains legal protection for many practices that landed it in court. The holes in the proposed settlement are gaping.
First, OEMs looking for non-Microsoft options that better meet the needs of customers may still find Microsoft impeding third-party products that sold fewer than 1 million units in the United States the year before.
Second, Microsoft may keep secret and refuse to license any APIs or protocols to would-be competitors that "compromise the security of ... anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems." These are the very stumbling blocks for those trying to compete with native Windows components for multimedia, e-commerce, messaging and file sharing.
Third, competitors must then, at their own expense, submit their software to a third-party testing organization to ensure compliance with Microsoft protocol specifications.
Fourth, the agreement specifically excludes servers, PDAs and handhelds and may even exclude tablet PCs, which Bill Gates, in his Comdex keynote, said will be the most popular computing platform in five years.
Fifth, Microsoft now has legal protection to add whatever it wishes to its operating systems, offering the same preload and default invocation benefits as before. OEMs have new freedoms to change these defaults, but how many real alternatives will be available?
Sixth, Microsoft is not required to disclose the format of locally stored

data files, such as document, address book, mail or stored music formats, that leverage the Windows desktop monopoly to tie users to other Microsoft software as much as APIs or network protocols do.
Finally, the agreement lacks any penalty for Microsoft's gains in market share and revenue as a result of past illegal behavior.
The proposed settlement won't protect the marketplace from Microsoft's product- and service-tying, nor will it encourage new competition. The agreement needs to be toughened to provide substantive remedies for substantive violations.
The nine states, plus the District of Columbia, that have rejected this settlement should hold their courses, as should the European Union.
We call on U.S. District Judge Colleen Kollar-Kotelly to use the upcoming 60-day public comment phase to carefully determine if this agreement is, in fact, in the public interest.

CC: 'jfh'